IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.1226 of 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.V.B. Rajure with Mr. Vikas M. Mali, for the Petitioners
Mr. R.M. Patne, A.G.P. for Respondent Nos.1 to 4.

CORAM : F.I. REBELLO & S.P. KUKDAY,JJ.

DATED : 4th February, 2005
P.C.

. The petitioners impugn the order dated 4th June, 2003 passed by the Divisional Commissioner, Pune Division, Pune, under No.BUS/PUNARU/SCR/15/2000. Normally we would not have interfered in the exercise of our extra ordinary jurisdiction as an Award has already been passed. It is, however, a case which went upto the Apex Court and the Apex Court has remanded the matter back to the Divisional Commissioner. It is in these circumstances that we are entertaining the present petition.

2. The grievance of the petitioners is that even if the partition is ignored and the holding of Shivram Tukaram Khot is

considered as 8 Hector and 41 Are as per the finding of the Divisional Commissioner himself the area in the benefited zone is only 3 Hector 45 Are. The submission is that it is only this area which could have been considered and not the area outside the benefited zone.

3. Having heard learned Counsel there is merit in what the petitioners submit that including the area outside the benefited zone is clearly contrary to Section 16(4) of the Maharashtra Resettlement of Project Affected Persons Act, 1976. In the light of that the impugned order dated 4th June, 2003 is set aside. The matter is remanded back to the Divisional Commissioner, Pune Division, Pune, to consider the holding of Shivram Tukaram Khot excluding the land outside benefited zone. Rule made absolute accordingly. No order as to costs.

4. Certified copy to be issued only after the amendment is carried out.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)